

STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD



In the Matter of)
)
UNIT DETERMINATION FOR PROFESSIONAL) Case Nos. SF-PC-1001 et al.
LIBRARIANS OF THE UNIVERSITY OF)
CALIFORNIA PURSUANT TO CHAPTER 744)
OF STATUTES OF 1978 (HIGHER) PERB Decision No. 247-H
EDUCATION EMPLOYER-EMPLOYEE)
RELATIONS ACT) September 30, 1982

Appearances; (Petitioners, Requestors, and Interested Parties)
Robert Bezemek, Attorney (Bennett and Bezemek) for University
Council, AFT, Locals 2199, 1966, 1474 and 1990; David Novogrodsky
for California State Employees Association— Librarians;
Hirsch Adell, Attorney (Reich, Adell and Crost) for American
Federation of State, County and Municipal Employees, AFL-CIO;
Douglas Barton, Kent Jonas and Terry Lewis, Attorneys (Corbett,
Kane and Berk) and James N. Odle, Attorney, for the Regents of
the University of California.

(Limited Parties) Robert Bezemek, Attorney (Bennett and Bezemek)
for University Council, AFT, Locals 2034, 1474, 2141, 2023, 2026
and 1990; Christine Bologna, Attorney for California State
Employees Association.

Before Tovar, Jaeger, Morgenstern and Jensen, Members.*

DECISION

Under subsection 3563(a) of the Higher Education
Employer-Employee Relations Act (HEERA or Act), the Public
Employment Relations Board (Board)¹ is charged with the

*Chairperson Gluck did not participate in this decision.

¹HEERA is codified at Government Code section 3560 et
seq. All statutory references are to the Government Code
unless otherwise specified. Subsection 3563(a) provides:

This chapter shall be administered by the
Public Employment Relations Board. In

responsibility to determine appropriate units for representation. Pursuant to that responsibility, hearings have been held before administrative law judges (ALJ's) of the Board regarding petitions filed and positions taken by various labor organizations as to appropriate groupings of employees. Administrative Law Judge Terry Filliman issued his recommendation to the Board regarding professional employees on February 2, 1982. That recommendation is incorporated by reference herein. Following issuance of that recommendation, the parties were invited to brief their positions thereon to the Board itself. After careful consideration of the record as a whole, including the pre- and post-recommendation briefs by the parties, the Board has determined that a unit consisting of all professional librarians employed by the Regents of the University of California (University) constitutes an appropriate unit for purposes of meeting and conferring within the meaning of the Act.

DISCUSSION

In March of 1980, California State Employees Association (CSEA) and University Council, AFT (AFT) filed separate petitions for a unit of all professional librarians,

administering this chapter the board shall have all of the following rights, powers, duties and responsibilities:

- (a) To determine in disputed cases, or otherwise approve, appropriate units.

systemwide. These same employees were encompassed in petitions filed by the American Federation of State, County, and Municipal Employees (AFSCME) and CSEA seeking units of all professional employees systemwide. The University initially supported a systemwide unit of all professional employees. Following issuance of the ALJ's recommendations, the University substantially supported his recommended units, but adhered to the position that librarians do not constitute an appropriate unit by themselves, arguing that they must be placed in a larger unit containing all academic employees. Given the respective positions of the parties, we must determine whether a unit of librarians only is appropriate, or whether such a unit is not appropriate without inclusion of all professional employees or all academic professional employees.

Based upon the community of interest factors and other standards set forth in section 3579,² we find that the

2section 3579 provides, in pertinent part:

(a) In each case where the appropriateness of a unit is an issue, in determining an appropriate unit, the board shall take into consideration all of the following criteria:

(1) The internal and occupational community of interest among the employees, including, but not limited to, the extent to which they perform functionally related services or work toward established common goals, the history of employee representation with

systemwide unit of all professional employees, sought by

the employer, the extent to which such employees belong to the same employee organization, the extent to which the employees have common skills, working conditions, job duties, or similar educational or training requirements, and the extent to which the employees have common supervision.

(2) The effect that the projected unit will have on the meet and confer relationships, emphasizing the availability and authority of employer representatives to deal effectively with employee organizations representing the unit, and taking into account such factors as work location, the numerical size of the unit, the relationship of the unit to organizational patterns of the higher education employer, and the effect on the existing classification structure or existing classification schematic of dividing a single class or single classification schematic among two or more units.

(3) The effect of the proposed unit on efficient operations of the employer and the compatibility of the unit with the responsibility of the higher education employer and its employees to serve students and the public.

(4) The number of employees and classifications in a proposed unit, and its effect on the operations of the employer, on the objectives of providing the employees the right to effective representation, and on the meet and confer relationship.

(5) The impact on the meet and confer relationship created by fragmentation of employee groups or any proliferation

AFSCME³ and, initially, by CSEA, is not appropriate. The internal and occupational community of interests of the vast spectrum of different sorts of professional employees of the University are simply too diverse to justify placement of all of them in a single unit. Given the pronounced community of interest differences between the diverse groups of professional employees, we cannot find that an overall unit would provide employees with the statutory right to effective representation, or have a salutary effect on the meet and confer relationship.

of units among the employees of the employer.

(b) There shall be a presumption that professional employees and nonprofessional employees shall not be included in the same representation unit. However, the presumption shall be rebuttable, depending upon what the evidence pertinent to the criteria set forth in subdivision (a) establishes.

(c) There shall be a presumption that all employees within an occupational group or groups shall be included within a single representation unit. However, the presumption shall be rebutted if there is a preponderance of evidence that a single representation unit is inconsistent with the criteria set forth in subdivision (a) or the purposes of this chapter.

³Nor is AFSCME's position rendered appropriate by its post-hearing modification recommending exclusion of professional employees at Lawrence Livermore National Laboratory but including all other professional employees systemwide.

Having found it inappropriate to place librarians in an all-professional employees unit, it remains to be determined whether they constitute an appropriate unit standing alone, or whether they may only appropriately be included in a more extensive unit with other academic professional employees.

We have reviewed the factual findings and legal conclusions encompassed in the ALJ's recommendations, and find them free of prejudicial error. (ALJ's Recommendations, pp. 79-86.) We are persuaded by the record as a whole that the systemwide unit of approximately 600 professional librarians proposed by AFT and CSEA possesses a community of interest independent of the other professional employees, and thus accept the ALJ's recommendation to that effect.

In addition to the discrete community of interest which librarians possess, we find the history of representation factors noted by the ALJ to be persuasive. Further, the fact that the University has recognized and solicited input from the Librarian Association of the University of California as an official body to advise the University in personnel and professional matters affecting the library since 1975 indicates that the University has recognized the existence of concerns unique to librarians, and has found it beneficial and efficient to consider those concerns in the past. This bodes well for the unit's potential effect on the meet and confer relationship. We do not find the unit to be so small as to

impair the potential meet and confer relationship, consisting as it does of all the librarians systemwide. It does not split an occupational group.

The grant of a separate unit to librarians does not indicate that every such occupational group within the University would be granted a discrete unit were it petitioned for, contrary to the fear expressed by the University. We are extremely sensitive to the statutory mandate to avoid undue unit proliferation. We do not consider creation of a sizeable unit such as this one, with recognizable and acknowledged internal community of interest and a history of separate organization and representation, to constitute undue unit proliferation. Rather, we find it to be a sensible configuration, consistent with the statutory criteria, which will potentially provide employees the right to effective representation without impairing the efficient operations of the University.

ORDER

Based upon the foregoing Decision and the record as a whole, the Public Employment Relations Board hereby ORDERS as follows:

1. All professional librarians employed by the Regents of the University of California constitute an appropriate unit for meeting and conferring in good faith pursuant to Government

Code section 3560, et seq. The inclusions in this unit are set forth in the attached appendix.

2. Any technical errors in this ORDER shall be presented to the director of representation who shall take appropriate action thereon in accordance with this decision.

3. The appropriate unit described above shall exclude supervisory, managerial, and confidential employees of the Regents of the University of California.

4. The Board hereby ORDERS a representative election in this unit and the general counsel is hereby directed to proceed in accordance with California Administrative Code, title 8, part 3, division 4.

By the BOARD

APPENDIX

PROFESSIONAL LIBRARIANS

<u>Code</u>	<u>Job Title</u>
3612	Librarian - Career Status
3613	Librarian - Potential Career Status
3614	Librarian - Temporary Status
3616	Associate Librarian - Career Status
3617	Associate Librarian - Potential Career Status
3618	Associate Librarian - Temporary Status
3620	Assistant Librarian - Career Status
3621	Assistant Librarian - Potential Career Status
3622	Assistant Librarian - Temporary Status
3633	Music Librarian
3635	Law Librarian
3637	Assistant Law Librarian